

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

OFFICE AND PROFESSIONAL EMPLOYEES')	
INTERNATIONAL UNION, LOCAL 23,)	
)	
Complainant,)	CASE 14333-U-99-3554
)	
vs.)	DECISION 6703 - PECB
)	
PIERCE COUNTY HOUSING AUTHORITY,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
)	

On January 15, 1999, Office and Professional Employees Union, Local 23 (union), filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that the Pierce County Housing Authority (employer) violated Chapter 41.56 RCW in connection with assigning a job title and wage rate to a certain classification. The complaint was reviewed by the Executive Director under WAC 391-45-110,¹ and a deficiency notice issued on March 15, 1999, pointed out defects in the complaint, as filed. The complainant was given a period of 14 days following the date of the deficiency notice in which to file

¹ At this stage of the proceedings, all of the facts alleged in the complaint are alleged to be true and provable. The question at hand is whether the complaint states a claim for relief available through unfair labor practice proceedings before the Commission.

and serve an amended complaint which stated a cause of action, or face dismissal of the complaint.

Nothing further has been heard or received from the complainant, so that dismissal of the complaint is now appropriate.

DISCUSSION

Some Allegations Provide No Basis For Remedy

The deficiency notice indicated that paragraphs 1, 2, 3, and 4 of the statement of facts did not provide any basis for a remedy, and were being taken as only providing background information. Additionally, paragraph 2 seemed to imply that the federal Department of Housing and Urban Development (HUD) was somehow instrumental in determining job descriptions and rates of pay, and the deficiency notice pointed out that the Public Employment Relations Commission is a state agency which does not assert jurisdiction to remedy violations of HUD regulations.

Conclusionary Materials

Paragraph 5 makes conclusionary allegations that the employer misrepresented the duties of a maintenance worker, applied an incorrect job title, and applied an incorrect wage rate. Although that suggests a theory of "refusal to bargain" by way of deception,

these allegations are insufficiently detailed to provide any basis for a remedy. In particular:

- The date(s) of the alleged misrepresentation(s) are not specified. For this complaint to be considered timely under RCW 41.56.160, the complained-of action must have occurred within the six months prior to the filing of the complaint.
- References to the parties' collective bargaining agreement suggest that the union is seeking a remedy for an alleged contract violation. It is well established, however, that the Commission does not assert jurisdiction to determine or remedy contract violations through unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976); City of Clarkston, Decision 3135 (PECB, 1980).

Paragraph 6 makes conclusory statements regarding an alleged "fraudulent job title and rate of pay" and deception. The complaint alleges that the employer has failed to resolve the matter to the union's satisfaction. While a refusal to explain its own proposals (or the basis for its disagreement with the proposals of the other party) could constitute a statutory violation, good faith bargaining does not require any party to agree to a proposal or make concessions. RCW 41.56.030(4). The union was thus advised that additional details would be needed to distinguish "refusal to bargain" from "refusal to agree".

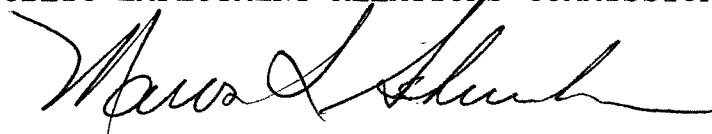
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above-captioned matter is DISMISSED for failure to state a cause of action.

Issued at Olympia, Washington, on the 8th day of June, 1999.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Marvin L. Schurke", written over a horizontal line.

MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.